

What form do I use?

Your residency status determines the Oregon tax return form you file.

Full-year residents

You're a full-year resident and will use **Form OR-40** (/DOR/forms/Pages/default.aspx) if all of the following are true:

- You think of Oregon as your permanent home.
- Oregon is the center of your financial, social, and family life.
- Oregon is the place you plan on coming back to when you're away.

You're still a full-year resident if you temporarily move out of Oregon, and then move back.

Part-year residents

You're a part-year resident if you move into or out of Oregon during the tax year. You'll use **Form OR-40-P** (/DOR/forms/Pages/default.aspx) if any of these are true:

- You're a part-year resident.
- You're filing jointly and, between you and your spouse/RDP, one of you is a full-year Oregon resident and the other is a part-year resident.
- You're filing jointly and both you and your spouse/RPD are part-year Oregon residents.
- You qualified as an Oregon resident living in a foreign country for part of the year.

Nonresidents

You're a nonresident if your permanent home is outside of Oregon and you'll use **Form OR-40-N** (/DOR/forms/Pages/default.aspx).

You're also considered a nonresident if all the following are true (special-case Oregon residents):

- You're an Oregon resident who maintained a permanent home outside Oregon the entire year.
- You didn't keep a home in Oregon during any part of the year.
- You spent less than 31 days in Oregon during the year.
- You meet the federal "physical presence" test or "bona fide residence" test for residents of the United States living in a foreign country.

You'll use the Form OR-40-N if any of these are true:

- You're a nonresident.
- You're a special-case Oregon resident.
- You're filing jointly and either you or your spouse/RDP (or both) is a nonresident.
- You meet the military personnel nonresident requirements.
- You qualified as an Oregon resident living in a foreign country for the entire year.
- You earned wages in Oregon, sold a property in Oregon, or had other Oregon source income.

Get more filing information

- **Military personnel.** (</DOR/programs/individuals/Pages/military.aspx>)
- **American Indian filing requirements.** (</DOR/programs/individuals/Pages/american-indian.aspx>)
- **Publication OR-17.** (/DOR/forms/FormsPubs/publication-or-17_101-431_2016.pdf)

Quick links

- **FAQ center.** (</DOR/FAQ/Pages/default.aspx>)
- **Filing information.** (</DOR/programs/individuals/Pages/filing-information.aspx>)
- **Filing requirements.** (</DOR/programs/individuals/Pages/file-requirements.aspx>)
- **Get forms and publications.** (</DOR/forms/Pages/default.aspx>)
- **Make payments.** (</DOR/pages/payments.aspx>) (</DOR/pages/payments.aspx>)
- **Revenue Online.** (https://revenueonline.dor.oregon.gov/tap/_/)
- **Where's My Refund?** (<https://revenueonline.dor.oregon.gov/tap/?Link=WMR>)

🗨 **Help us improve!** Was this page helpful?

Yes

No

2015 ORS 316.027¹

"Resident" defined

(1) For purposes of this chapter, unless the context requires otherwise:

(a) "Resident" or "resident of this state" means:

(A) An individual who is domiciled in this state unless the individual:

(i) Maintains no permanent place of abode in this state;

(ii) Does maintain a permanent place of abode elsewhere; **and**

(iii) Spends in the aggregate not more than 30 days in the taxable year in this state; **or**

(B) An individual who is not domiciled in this state but maintains a permanent place of abode in this state and spends in the aggregate more than 200 days of the taxable year in this state unless the individual proves that the individual is in the state only for a temporary or transitory purpose.

(b) "Resident" or "resident of this state" does not include:

(A) An individual who is a qualified individual under section 911(d)(1) of the Internal Revenue Code for the tax year;

(B) A spouse of a qualified individual under section 911(d)(1) of the Internal Revenue Code, if the spouse has a principal place of abode for the tax year that is not located in this state;

(C) A resident alien under section 7701(b) of the Internal Revenue Code who would be considered a qualified individual under section 911(d)(1) of the Internal Revenue Code if the resident alien were a citizen of the United States; **or**

(D) A member of the Armed Forces who performs active service as defined in 10 U.S.C. 101(d)(3), other than annual training duty or inactive-duty training, if the member's residency as reflected in the payroll records of the Defense Finance and Accounting Service is outside this state.

(2) For purposes of subsection (1)(a)(B) of this section, a fraction of a calendar day shall be counted as a whole day. [1969 c.493 §8; 1987 c.158 §49; 1995 c.79 §165; 1999 c.1096 §1; 2015 c.701 §50]

Note: Sections 52 to 54, chapter 701, Oregon Laws 2015, provide:

Sec. 52. (1) Any taxpayer who seeks refunds, for tax years beginning on or after January 1, 2012, due to exemption of amounts from taxation as provided in ORS 316.027 ("Resident" defined) (1)(b) (D) shall file amended returns for the applicable tax years.

- (2) Notwithstanding ORS 314.415 (Refunds) (2), a taxpayer may file a claim for refund at any time prior to January 1, 2018.
- (3) A refund under this section does not bear interest under ORS 305.220 (Interest on deficiency, delinquency or refunds).
- (4) Any interest or penalty for tax years beginning on or after January 1, 2010, and before January 1, 2012, that is attributable to a taxpayer's residency as defined in ORS 316.027 ("Resident" defined) (1)(b)(D) shall be canceled. [2015 c.701 §52]

Sec. 53. The amendments to ORS 316.027 ("Resident" defined) by section 50 of this 2015 Act apply to tax years beginning on or after January 1, 2012. [2015 c.701 §53]

Sec. 54. Section 52 of this 2015 Act is repealed January 1, 2018. [2015 c.701 §54]

¹ Legislative Counsel Committee, *CHAPTER 316—Income Tax*, https://www.oregonlegislature.gov/bills_laws/ors/ors316.html (2015) (last accessed Jul. 16, 2016).